

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

SUSAN JOHNSON, ROBERT JOHNSON, and)
COZY KITTENS CATTERY, LLC, ,)

Plaintiffs,)

v.)

No. 08-CV-06103-DW

ELIZABETH ARDEN d/b/a)
COMPLAINTSBOARD.COM et al. ,)

Defendants.)

ORDER

Before the Court are Plaintiffs' Motion for Leave to Submit Limited Interrogatories to Defendant InMotion Hosting, Inc. (Doc. 47) and Response to the Court's June 12, 2009 Show Cause Order (Doc. 46). For the following reasons, Plaintiffs' Motion (Doc. 47) is denied, and the claims against Defendants Elizabeth Arden d/b/a ComplaintsBoard.com, ComplaintsBoard.com, and Michelle Reitenger are hereby dismissed without prejudice.

Plaintiffs filed the original Complaint in this case on June 26, 2008 in the Circuit Court for Putnam County, Missouri. On June 12, 2009, this Court issued an Order to Show Cause as to why the claims against Defendants Elizabeth Arden d/b/a ComplaintsBoard.com, ComplaintsBoard.com, and Michelle Reitenger should not be dismissed without prejudice for failure to complete service within 120 days of filing the complaint (Doc. 44). In response to the Court's Order, Plaintiffs state that although they have made an effort to serve the above-named Defendants, they have been unable to locate addresses for any of them. In conjunction with their response to the Order to Show Cause, Plaintiffs submitted a Motion for Leave to Submit Limited

Interrogatories to Defendant InMotion Hosting, Inc. (Doc. 47), arguing that discovery may allow them to determine the addresses of Defendants Elizabeth Arden d/b/a ComplaintsBoard.com, ComplaintsBoard.com, and Michelle Reitenger. The Court issued an Order on June 8, 2009 (Doc. 42) dismissing with prejudice Plaintiffs' claims against InMotion Hosting, Inc., as those claims were barred by federal statute. As a result, InMotion Hosting, Inc. is no longer a party to this action. Interrogatories can be served only on another party. Fed. R. Civ. P. 33(a)(1); University of Texas v. Vratil, 96 F.3d 1337, 1340 (10th Cir. 1996). Plaintiffs' request for leave to submit interrogatories to InMotion is therefore denied as improper. As InMotion is a non-party, Plaintiffs' current request for production of documents is also improper, as it does not comport with the procedures set forth in Fed. R. Civ. P. 45(a)(1)(A)(iii.).

For the foregoing reasons, The Court hereby ORDERS that

- 1) Plaintiffs' Motion for Leave to Submit Limited Interrogatories to Defendant InMotion Hosting, Inc. (Doc. 47) is DENIED.
- 2) Pursuant to Federal Rule of Civil Procedure 4(m), the claims against Defendants Elizabeth Arden d/b/a ComplaintsBoard.com, ComplaintsBoard.com, and Michelle Reitenger are hereby DISMISSED WITHOUT PREJUDICE.
- 3) The Clerk of the Court is directed to mark this case as CLOSED.

Date: July 10, 2009

/s/ Dean Whipple
Dean Whipple
United States District Judge